

SUPREME COURT OF WISCONSIN

Case No.: 97-3140-CR

Complete Title
of Case:

State of Wisconsin,
Plaintiff-Respondent-Petitioner,
v.
William J. Church,
Defendant-Appellant.

REVIEW OF A DECISION OF THE COURT OF APPEALS
Reported at: 223 Wis. 2d 641, 589 N.W.2d 638
(Ct. App. 1998-Published)

Opinion Filed: July 11, 2000
Submitted on Briefs:
Oral Argument: April 6, 2000

Source of APPEAL

COURT: Circuit
COUNTY: Dane
JUDGE: Sarah B. O'Brien

JUSTICES:

Concurred:
Dissented:
Not Participating:

ATTORNEYS: For the plaintiff-respondent-petitioner the cause was argued by *Susan M. Crawford*, assistant attorney general, with whom on the briefs was *James E. Doyle*, attorney general.

For the defendant-appellant there was a brief and oral argument by *James L. Fullin*, assistant state public defender.

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

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STATE OF WISCONSIN

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FILED

JUL 11, 2000

Cornelia G. Clark
Clerk of Supreme Court
Madison, WI

REVIEW of a decision of the Court of Appeals. *Dismissed.*

¶1 PER CURIAM. The State petitioned for review of the decision of the court of appeals, State v. Church, 223 Wis. 2d 641, 589 N.W.2d 638 (Ct. App. 1998), reversing a judgment of conviction of the Circuit Court for Dane County, Sarah B. O'Brien, Judge. The conviction was for two counts of child enticement, one a violation of Wis. Stat. § 948.07(3) and the other a violation of Wis. Stat. § 948.07(6), based on one act of causing a child to enter a hotel.

¶2 The court of appeals reversed the conviction. It held that the two counts were multiplicitous "because Wis. Stat. § 948.07 does not permit multiple punishments for one act of enticement simply because the defendant intended multiple

misdeeds, rather than a single misdeed, with the victim." 223 Wis. 2d at 645-46.

¶3 The State argued in the court of appeals, in its petition for review and in its briefs to this court, that Wis. Stat. § 948.07 creates multiple offenses that may be punished separately. At oral argument the State departed from its prior position. It argued that its interpretation of the child enticement statute advanced in State v. Derango, 2000 WI 89, ___ Wis. 2d ___, ___ N.W.2d ___, is correct, namely, that Wis. Stat. § 948.07 creates a single offense with alternative mental states that may be submitted to the jury without a requirement of unanimity.

¶4 The issue framed in the present case has been decided by this court in State v. Derango, of even date.

¶5 For the reasons set forth, we conclude that review in this case was improvidently granted, and we dismiss the petition for review.

By the Court.—The review of the decision of the court of appeals is dismissed.

